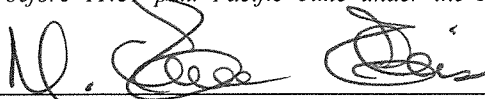


PATENT

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M. Ena Ellis

Applicant : Matthias Hoffman, et al. Confirmation No. 2362
Application No. : 10/567,882
Filed : February 8, 2006
Title : ADJUSTABLE MECHANISM FOR A MOTOR VEHICLE

Grp./Div. : 3656
Examiner : Thomas C. Daiz

Docket No. : 56817/M521

APPELLANT'S REPLY BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Post Office Box 7068
Pasadena, CA 91109-7068
August 22, 2011

On pages 8-9 of the Examiner's Answer, the Examiner states that "Appellant appears to be arguing that Hendrick is non-analogous art." Appellant, however, does not limit its argument to non-analogous art. Appellant also believes that even if Hendrick is analogous art, one having ordinary skill in the art would not combine Taubmann and Hendrick.

As mentioned in Appellant's Opening Brief at page 5, a gear mechanism is a complex, highly engineered device. Worm gear mechanisms have a variety of different applications and requirements, each having different size requirements, tooth arrangements and gear geometry. Applicant respectfully submits that a person skilled in the art of motor vehicle seat mechanisms using a spindle nut/spindle mechanism would not look to a totally different field (casement windows) and to a totally different application (pivoting arms) for use in the threaded spindle nut/spindle arrangement of Taubmann. Hendrick has been known for over 60 years at the time of Taubmann's filing date, yet no one apparently applied the teaching of Hendrick to a threaded

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spindle/spindle nut drive during that time. Applicant respectfully submits that one skilled in the art at the time of the invention using common sense would not combine Taubmann and Hendrick as suggested by the Examiner.

The Examiner also relies on In re Oetiker, 977 F.2d 1443, 24 USPQ 2d 1443 (Fed.Cir. 1992), in support of the Examiner's position that Hendrick is analogous prior art. In In re Oetiker, however, the Examiner was reversed because the court concluded that it would not be reasonable to solve the problem of fastening a hose clamp by looking to solutions relating to fasteners for garments. Id. at 1446. Similarly here, it is not reasonable to solve a gearing problem relating to driving a spindle for a motor vehicle seat part by looking to gear teeth used to pivot an arm on a casement window. Applicant disagrees with the Examiner that these problems are in the same field of endeavor. Applicant also believes that the "particular problem" identified by the Examiner ("optimizing a gear connection") is not sufficient to satisfy the Oetiker test. Optimizing a gear connection is not a problem identified in Appellant's application. Also, one having ordinary skill in art would recognize that solving a problem relating to optimization of a gearing connection requires a study of the specific application and the specific gear arrangement. Due to the significantly different field in Hendrick and the significantly different gearing application in Hendrick, it is believed that Hendrick is not analogous art to the present invention.

On page 9 of the Examiner's Answer, the Examiner argues that Appellant is making an improper piecemeal analysis of Hendrick. Applicant respectfully disagrees and submits that one having ordinary skill the art would not look at only a single tooth in Hendrick and apply this to Taubmann, especially in view of the different field and different application to which Hendrick applies.

On pages 9-10 of the Examiner's Answer, the Examiner states that the combination of Taubmann and Hendrick teaches that the internal toothing "extends over a greater length in the axial direction than the external toothing of the spindle nut so that the internal toothing extends axially into the at least one end section without external toothing," as recited in claim 1. The Examiner, however, does not identify a reason to change the teaching in Taubmann of external toothing extending the full axial length of the spindle nut. By failing to provide an explanation, the Examiner fails to satisfy the teaching of KSR (see Appellant's Brief at page 7).

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On page 10 of the Examiner's action, the Examiner asserts for the first time that Hendrick discloses "a cylindrical portion in a center region." The Examiner, however, provides no reference to the specification or figures of Hendrick to show external toothing having a cylindrical portion. Hendrick does not provide any teaching with regard to a toothing having different axial regions. Hendrick, if at all, teaches a toothing with a purely globoid shape (see Fig. 5). One having ordinary skill in the art would not consider Hendrick to teach external toothing having a cylindrical portion in a center region. Similarly, Appellant is unable to identify external toothing having a cylindrical portion in Campbell (see Appellant's Brief at pages 9-10). Campbell et al., between column 3, line 56 and column 4, line 5, states teeth having an involute design, the shaded areas in Figure 4 indicating areas of maximum wear. Campbell et al. does not mention a center region of a toothing having a cylindrical shape.

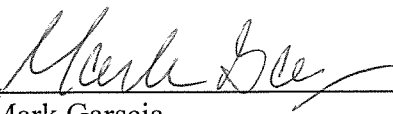
On page 11 of the Examiner's Answer, the Examiner asserts with regard to claim 14 that Hauser is analogous art. Appellant respectfully disagrees. "Optimizing a tooth connection" is not believed to be identified in Applicant's specification as a problem of which Applicant is concerned, and, even if it was, one of ordinary skill in the art would recognize that the problem solved by Hauser (increasing lubrication of a fluid film, see page 8 of Examiner's Answer) does not apply to the present invention.

On page 7 in the last full paragraph of the Examiner's Answer, the Examiner refers to the prior art of Landskron et al. This appears to be an error because there is no rejection based on Landskron et al.

In view of the above, the Appellant respectfully requests that the Examiner's rejection of claims 1-5, 7-12, 14-27, 29-32, 34-37 and 82-87 be reversed.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By 
Mark Garscia
Reg. No. 31,953
626/795-9900